



# PRESS RELEASE

## Internal Revenue Service - Criminal Investigation *Chief Richard Weber*

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IRS – Criminal Investigation

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### **Two Cayman Island Financial Institutions Plead Guilty in Manhattan Federal Court to Conspiring to Hide More Than \$130 Million in Cayman Bank Accounts**

*Cayman Companies Admit to Helping U.S. Taxpayer-Clients Hide Assets in Offshore Accounts, and Agree to Produce Account Files of Non-Compliant U.S. Taxpayers*

*First Conviction of Non-Swiss Financial Institution For Tax Evasion Conspiracy*

U.S. Attorney Preet Bharara for the Southern District of New York, Acting Deputy Assistant Attorney General Stuart Goldberg of the Justice Department's Tax Division, and Chief Richard Weber for the Internal Revenue Service – Criminal Investigation, (IRS-CI), announced today the guilty pleas of Cayman National Securities Ltd. (CNS) and Cayman National Trust Co. Ltd. (CNT), two Cayman Island affiliates of Cayman National Corporation, which provided investment brokerage and trust management services to individuals and entities within and outside the Cayman Islands, including citizens and residents of the United States (U.S. taxpayers). CNS and CNT pleaded guilty to a criminal Information charging them with conspiring with many of their U.S. taxpayer-clients to hide more than \$130 million in offshore accounts from the U.S. Internal Revenue Service (IRS) and to evade U.S. taxes on the income earned in those accounts. CNS and CNT entered their guilty pleas pursuant to plea agreements requiring the companies to, among other things, produce through the treaty process account files of non-compliant U.S. taxpayers who maintained accounts at CNS and CNT, and pay a total of \$6 million in financial penalties. The plea proceeding took place today before the Honorable U.S. District Judge Thomas P. Griesa for the Southern District of New York.

"The veil of secrecy has been lifted from what was once a common place for criminals to hide their money offshore," said Chief Weber. "The IRS and DOJ work aggressively to require banks to follow the laws and not turn a blind eye to criminal activity. When individuals and entities hide behind shell corporations and numbered bank accounts, they are not only cheating the U.S. government, they are cheating the honest taxpaying citizens who are obeying the law and doing the right thing."

"The guilty pleas of these two Cayman Island companies today represent the first convictions of financial institutions outside Switzerland for conspiring with U.S. taxpayers to evade their lawful and legitimate taxes," said U.S. Attorney Bharara. "The plea agreements require these Cayman entities to provide this office with the client files, because we are committed to finding and

prosecuting not only banks that help U.S. taxpayers evade taxes, but also individual taxpayers who find criminal ways not to pay their fair share. We will follow them no matter how far they go to hide their accounts, whether it is Switzerland, the Cayman Islands, or some other tax haven.”

“Today’s convictions make clear that our focus is not on any one bank, insurance company or asset management firm, or even any one country,” said Acting Deputy Assistant Attorney General Goldberg of the Justice Department’s Tax Division. “The Department and IRS are following the money across the globe – there are no safe havens for U.S. citizens engaged in tax evasion or those actively assisting them.”

According to the information, statements made during the proceedings today and other documents filed in Manhattan federal court, including the statement of facts to the plea agreements:

From at least 2001 through 2011, CNS and CNT, which are both located in Grand Cayman and organized under the laws of the Cayman Islands, assisted certain U.S. taxpayers in evading their U.S. tax obligations to the IRS and otherwise hiding accounts held at CNS and CNT from the IRS (hereinafter, undeclared accounts). CNS and CNT did so by knowingly opening and maintaining undeclared accounts for U.S. taxpayers at CNS and CNT. Specifically, and among other things, in furtherance of a scheme to help U.S. taxpayers hide assets from the IRS and evade taxes:

- CNS and CNT opened, and/or encouraged many U.S. taxpayer-clients to open accounts held in the name of sham Caymanian companies and trusts (collectively, structures), thereby helping U.S. taxpayers conceal their beneficial ownership of the accounts.
- CNS and CNT treated these sham Caymanian structures as the account holders and allowed the U.S. beneficial owners of the accounts to trade in U.S. securities.
- CNS failed to disclose to the IRS the identities of the U.S. beneficial owners who were trading in U.S. securities, in contravention of CNS’s obligations under its Qualified Intermediary Agreement (QI) with the IRS.
- After learning about the investigation of Swiss bank UBS AG (UBS), in or about 2008, for assisting U.S. taxpayers to evade their U.S. tax obligations, CNS and CNT continued to knowingly maintain undeclared accounts for U.S. taxpayer-clients and did not begin to engage in any significant remedial efforts with respect to those accounts until 2011 and 2012.

The sham Caymanian structures that CNT set up for U.S. taxpayer-clients included trusts, which were nominally controlled by CNT trust officers, but which in fact were controlled by the U.S. taxpayer-clients; managed companies, for which CNT ostensibly provided direction and management services, but which in truth were shell companies that served only to hold the assets of the U.S. taxpayer-clients; and registered office companies, which were shell companies for which CNT simply supplied a Caymanian mailing address. CNS treated these sham Caymanian structures as the account holders and then permitted the U.S. taxpayer-clients to trade in U.S. securities, without requiring them to submit Form W-9s, which are IRS forms that identify individuals as U.S. taxpayers, as CNS was obligated to do under its QI obligations for accounts held by U.S. persons that held U.S. securities. CNS and CNT agreed to maintain these structures for U.S. taxpayer-clients after many of them expressed concern that their accounts would be detected by the IRS.

In or about April 2008, it became publicly known that the U.S. Department of Justice was investigating UBS for assisting U.S. taxpayers to evade their U.S. tax obligations. Thereafter,

despite the public disclosure of the UBS case, and CNS's awareness of it, CNS continued to assist U.S. taxpayer-clients in concealing their accounts from the IRS by, among other things, failing to require them to complete Form W-9s. Likewise, up through at least 2010, CNT continued to rely on account opening documentation that, rather than barring the creation of non-tax compliant structures, simply assigned higher "risk" points to such structures. In or about June 2011, CNT hired a new president, who spearheaded a review of CNT's files. In the course of that review, not a single file was found to be complete and without tax or other issues. Moreover, with respect to the structures that had U.S. beneficial owners, CNT's files contained little, if any, evidence of tax compliance.

At their high-water mark in 2009, CNS and CNT had approximately \$137 million in assets under management relating to undeclared accounts held by U.S. taxpayer-clients. From 2001 through 2011, CNS and CNT earned more than \$3.4 million in gross revenues from the undeclared U.S. taxpayer accounts that they maintained.

As part of their plea agreements with the U.S. Attorney's Office for the Southern District of New York (the office), CNS and CNT have agreed to cooperate fully with the office's investigation of the companies' criminal conduct. To date, CNS and CNT have already made substantial efforts to cooperate with that investigation, including by: (1) facilitating interviews that the office conducted of CNS and CNT employees, including top level executives; (2) voluntarily producing documents in response to the office's requests; (3) providing, in response to a treaty request, unredacted client files for approximately 20 percent of the U.S. taxpayer-clients who maintained accounts at CNS and CNT; and (4) committing to assist in responding to a treaty request that is expected to result in the production of unredacted client files for approximately 90 to 95 percent of the U.S. taxpayer-clients who maintained accounts at CNS and CNT.

In connection with their guilty pleas, CNS and CNT have agreed to pay the United States a total of \$6 million, which consists of the forfeiture of gross proceeds of their illegal conduct, restitution of the outstanding unpaid taxes from U.S. taxpayers who held undeclared accounts at CNS and CNT, and a fine.

U.S. Attorney Bharara praised the outstanding investigative work of IRS-CI and thanked the Justice Department's Tax Division for their assistance in the investigation.

This case is being handled by the office's Complex Frauds and Cybercrime Unit. Assistant U.S. Attorneys Sarah E. Paul and Niketh Velamoor for the Southern District of New York are in charge of the prosecution.

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